UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA	:	
	:	**3:11CR248 (SRU)**
v.	:	
	:	**APRIL 17, 2012**
JOANNE OSMOLIK	:	

DEFENDANT'S MEMORANDUM IN AID OF SENTENCING

The Defendant, JOANNE OSMOLIK, respectfully files this Memorandum as an aid to the Court in sentencing scheduled for April 26, 2012 @ 11:00am in the United States District Court, Bridgeport, Connecticut in front of the Honorable Stefan R. Underhill, U.S.D.J. The arguments presented in this sentencing memorandum are based, in part, on information presented in the Pre-Sentence Report ("PSR") authored by United States Probation Officer January Satrazemis and discussions with Assistant United States Attorney Eric Glover.

Part I of this memorandum discusses the Defendant's background and the circumstances that have brought him before this Court; Part II discusses the application of Booker to the determination of the appropriate sentence in this case; Part III presents a description of factors as presented in 18 U.S.C. § 3553(a); Part IV presents the alternative argument that a non-Guideline sentence should be imposed in this case pursuant to 18 U.S.C. § 3553(a); and Part V discusses a sentencing proposal for the Court's consideration as well as a request for prison designation (should incarceration be necessary).

I. BACKGROUND and FACTUAL CIRCUMSTANCES

On December 20, 2011, Joanne Osmolik appeared in the United States District Court at Bridgeport, CT, before the Honorable Stefan R. Underhill, U.S.D.J., waived Indictment and entered a guilty plea to a one count Information in 3:11CR248 (SRU), which charges Wire Fraud in violation of 18 U.S.C. § 1343. This offense is punishable by a maximum penalty of

twenty years' imprisonment, a fine of up to $3,555.582, up to three years of supervised release and a $100.00 mandatory special assessment. Ms. Osmolik has been at liberty since her initial presentment and plea on December 20, 2011.

It appears that Ms. Osmolik essentially agrees with the Offense Conduct as described in Ms. Satrazemis' PSR, though she has disputed the loss amount with respect to the fraudulent conduct.[1] The question that remains, therefore, is how much incarceration, if any, is necessary to achieve a sentence that comports with the factors set forth in 18 U.S.C. § 3553(a). Ms. Osmolik respectfully suggests, for the reasons that follow, that she should be sentenced to a non-Guidelines sentence – and specifically a period of supervised release only.

II. SENTENCING SCHEME POST-BOOKER

For nearly 20 years, the sentencing structure for the commission of federal crimes was seemingly cast in stone. The Federal Sentencing Guidelines, made sacrosanct by an act of Congress, were deemed mandatory edicts. But those dictates lost their mandatory nature when the United States Supreme Court, in United States v. Booker, 543 U.S. 220 (2005), rendered the United States Sentencing Guidelines no longer mandatory, but advisory. The directives of Booker and § 3553(a) make clear that courts may no longer uncritically apply the guidelines. The U.S. Supreme Court articulated in Rita v. United States, 551 U.S. 338 (2007) and again in Gall v. United States, 552 U.S. 38 (2007), that in sentencing, there is no presumption that the Guidelines must apply. In United States v. Crosby, 397 F.3d 103 (2d Cir. 2005), the Second Circuit reviewed Booker and explained how courts should now approach sentencing and the determination of a fair and just sentence. Since the Supreme Court's decision in Booker, while

[1] As of the writing of this sentencing memorandum, communication with Ms. Osmolik has been difficult due to the fact that she fails to maintain communication with my office.

the sentencing court is still required to consider the applicable Guidelines range, it must also consider the other factors enumerated in § 3553(a) when imposing sentence.

The Crosby Court has set forth the model for sentencing in the post-Booker world of federal sentencing. Essentially, there are now three types of sentences a court may impose. Id. at 111 n.9, 113. First, there are sentences within the applicable sentencing guideline range. Second, there are guideline sentences that result from permissible departures pursuant to Chapter Five of the Sentencing Guidelines. Finally, there are non-guideline sentences that are sentences that do not fall within the guideline range and do not result from permissible departures. Id. Presumably, non-guideline sentences result from the consideration of prohibited factors or from circumstances that are in some fashion outside of the broad departure authority U.S.S.G. § 5K2.0 would otherwise encompass.

To determine a sentence under Crosby's model, a court must first calculate the Defendant's guidelines and consider them. Next, the sentencing court must consider whether departures are appropriate. Third, the court must decide, after considering the guidelines and all of the factors set forth in 18 U.S.C. 3553(a), whether to impose a guideline sentence (including a sentence that results from permissible departures), or a non-guideline sentence. Id. It is 18 U.S.C. § 3553(a) that mandates that the Court "shall impose a sentence sufficient, but not greater than necessary, to comply with the [articulated] purposes [of sentencing]."[2]

Recently, the Second Circuit made an unambiguous pronouncement regarding the Guidelines in United States v. Cavera, 550 F.3d 180, 2008 U.S. App. LEXIS 24714 (2008). After an en banc rehearing, the Court proclaimed the following:

[2] See, e.g., United States v. Ministro-Tapia, Docket No. 05-5101-cr (2d Cir. Nov. 28, 2006) (Discussion Of The Parsimony Clause; District Court Must Impose Below-the-Range Sentence If It Finds that Such a Sentence Serves the Ends of Sentencing as Well as a Guidelines Sentence).

> "The Guidelines provide the 'starting point and the initial benchmark' for sentencing, Gall, 128 S. Ct. at 596, and district courts must "remain cognizant of them throughout the sentencing process," Id. at 596 n.6. It is now, however, emphatically clear that the Guidelines are guidelines -- that is, they are truly advisory. A district court may not presume that a Guidelines sentence is reasonable; it must instead conduct its own independent review of the sentencing factors, aided by the arguments of the prosecution and defense. District judges are, as a result, generally free to impose sentences outside the recommended range. When they do so, however, they "must consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance." Id. at 597. In this way, the district court reaches an informed and individualized judgment in each case as to what is "sufficient, but not greater than necessary" to fulfill the purposes of sentencing. 18 U.S.C. § 3553(a)."

Cavera, 2008 U.S. App. LEXIS 24714 at *16 - *17.

III. CALCULATION OF MS. OSMOLIK'S FEDERAL SENTENCING GUIDELINES RANGE OF IMPRISONMENT.

It would appear that Ms. Osmolik's United States Sentencing Guidelines range is 33-41 months based upon a Total Offense Level of 16 and a Criminal History Category I. Here is how the offense level is calculated:

- Base Offense Level: The guideline for 18 U.S.C. § 1343 is found in Guideline § 2B1.1. Guideline § 2B1.1(a)(1) establishes a base offense level of 7 for offenses that involve theft, embezzlement, receipt of stolen property, property destruction and fraud. **7**

- Specific Offense Characteristic: Guideline § 2B1.1(b)(1)(I) states that a 16 level enhancement is appropriate if the loss was more than $1,000,000 but less than $2,500,000. **+16**

- Adjustment for Acceptance of Responsibility: Ms. Osmolik has admitted responsibility for the offense. Under Guideline § 3E1.1(a), a two-level reduction is recommended. Because she timely entered a guilty plea (pre-indictment), the Government intends to file a motion for an additional one-level reduction under § 3E1.1(b), **-3**

This results in a Total Offense Level of 20. Additionally, Ms. Osmolik has no prior criminal convictions, and consequently she has a total of zero criminal history points which, according to the Sentencing Table, establishes a criminal history category of I.

IV. A NON-GUIDELINE SENTENCE SHOULD BE IMPOSED.

In this section, Ms. Osmolik wishes to present a sentencing discussion based upon the first and third branches of the Crosby sentencing model – a discussion of the Defendant's Guidelines and then a discussion of relevant factors under 18 U.S.C. § 3553(a).

A. Ms. Osmolik's Federal Sentencing Guidelines Range.

A discussion of Ms. Osmolik's Federal Sentencing Guidelines range has been presented above. It appears the applicable range is 33-41 months' imprisonment.

B. Application of 18 U.S.S.C. § 3553(a) factors.

Section 18, United States Code, § 3553(a) provides the overall framework within which a sentencing judge must determine the appropriate sentence for a defendant. While not all of the factors contained in the statute will apply in every case, many of them do. In this case, the factors most directly relevant that the Court should consider are:

> "(1) the nature and circumstances of the offense and the history and characteristics of the Defendant;
> (2) the need for the sentence imposed:
> (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
> (B) to afford adequate deterrence to criminal conduct;
> (C) to protect the public;
> (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;"
> (3) the kinds of sentences available;
> (4) the kinds of sentence and the sentencing range established for –
> (A) the applicable category of offense committed by the applicable category of defendant as set forth in the Guidelines…;
> (5) any pertinent policy statement issued by the Sentencing Commission;
> (6) the need to avoid unwanted sentence disparities among defendants with similar records who have been found guilty of similar conduct…

Thus, while a sentencing court must consider the applicable Guidelines sentence, there is no longer a presumption that such a sentence satisfies the objectives of § 3553(a). Significantly, neither § 3553(a) nor the majority opinion in Booker suggest that the sentencing court should give the Guidelines any greater consideration than any of the other factors contained in § 3553(a).

18 U.S.C. § 3553(a) provides that the Court "shall impose a sentence sufficient, but not greater than necessary" to achieve the goals of just punishment, specific and general deterrence, and to provide needed educational, vocational, medical care or other correctional treatment in the most effective manner. Each of these goals can be met in this case with a non-Guidelines sentence. Such a sentence would serve the goal of just punishment because it is a significant deprivation of liberty and it sufficiently punishes the Defendant's conduct in this case.

i. 18 U.S.C. § 3553(a)(1): Nature/Circumstances/History of the Defendant.

Joanne Claudia Osmolik (nee: Topolski), 51, was born in Bridgeport, CT on March 22, 1960, to the marital union of the late John Topolski and Barbara Topolski (nee: Burlant), 79. PSR ¶ 31. She was raised in Trumbull, CT in a single family home with her hard-working mother and father, as well as with her siblings.[3] PSR ¶ 32. When Ms. Osmolik was 13 years old, her parents divorced, her father moved out of the family home and went to live with his sister in Bridgeport.[4] PSR ¶ 33. At the age of 15, Ms. Osmolik was alone in the family home much of the time because her mother was constantly coming in and out of the home, often spending most of her time at her boyfriend's house. PSR ¶ 35. Consequently, she virtually

[3] Ms. Osmolik has two brothers and a sister. Jeffrey Topolski, 56, resides with Ms. Osmolik's mother in Trumbull and works for Kohl's. Anne Jocelyn Topolski, 54, resides in CA and is employed in marketing. William Topolski, 53, resides in Trumbull and is employed as an AT&T technician PSR ¶ 41.

[4]. In 2003, her father passed away from pneumonia at age 73. PSR ¶ 39.

always home alone and having to call her aunt for money for food. PSR ¶ 35. Ms. Osmolik was able to work through these difficulties, graduate from high school and obtain employment. Through the years, however, Ms. Osmolik remained as the primary caretaker for her mother – who currently is age 80 – and a sentence of imprisonment could have a terribly negative effect upon her. PSR ¶ 42.

At the age of 22, she met and began dating Thomas Osmolik. They dated for seven years, and in 1989 the two married. PSR ¶ 37, 43. After three years of marriage, the couple separated and later divorced. They have one son together, Steven William Osmolik, 21, who currently resides with Ms. Osmolik. PSR ¶ 44. He currently volunteers as a firefighter for the town of Newtown. PSR ¶ 44. In 1995, Ms. Osmolik met and began dating Robert Rinaldi, her current boyfriend – they have been living together since 1997 in Newtown, CT. PSR ¶ 38, 45. Despite their rocky relationship over the years, they still maintain a strong bond, PSR ¶ 46. Mr. Rinaldi, self-employed in the construction business, still regards Ms. Osmolik is a good person who continues to support the Defendant and will stand by her no matter the result. PSR ¶ 47.

Ms. Osmolik has suffered from a multitude of physical problems over the years. In October 2002, she had gastric bypass surgery and this procedure has caused her to become severely anemic. PSR ¶ 50. In 2003, Ms. Osmolik underwent a hernia operation at Yale/New Haven Hospital, located in New Haven. PSR ¶ 51. She currently suffers from restless leg syndrome, high blood pressure, a bad sciatic nerve, spondylosis (degenerative back disorder) and has a cyst that pushes on her L4 and L5 vertebras. PSR ¶ 52.

At Latex International, there clearly was extravagant and reckless spending by Joanne Osmolik, Kevin Coleman and others (including one or more individuals still employed by Latex). This irresponsible spending took the form of international business trips, long vacations, gaudy

raffles, exorbitant home improvements, flashy parties, expensive cars, material goods ("gifts") purchased in lieu of raises, golf clubs, fancy watches, baby shower gifts, gift card bonuses to salesmen, Halloween costumes, alcohol/wine/liquor for Mr. Coleman and for the customers – just to name a few. It was Kevin Coleman, as her boss, who authorized many of these expenses. Her abusive use of the American Express card began at a time when her home situation was not good. And, once again, these expenditures – though improper – were authorized by Kevin Coleman. Fictitious expense reports were created to cover up the fraud. And, before the bottom fell out, Mr. Coleman had Ms. Osmolik shred expense reports and delete emails, among other things.

ii. 18 U.S.C. § 3553(a)(2): Need For Sentence Imposed to Reflect Seriousness of the Offense and Promote Deterrence.

1. General and Specific Deterrence.

As for deterrence, both general and specific, this Court's sentence should be sufficient to send a message that lying to a federal grand jury will carry severe consequences. Therefore, considering the need for the sentence to provide adequate general and specific deterrence, a non-Guidelines sentence would be appropriate. As the Second Circuit has observed with respect to the rationale of specific deterrence and the relationship between the sentence for the current offense and prior time served, "if a defendant served no time or only a few months . . ., a sentence of even three to five years for the current offense might be expected to have the requisite deterrent effect." Mishoe, 241 F.3d at 220.

General deterrence focuses on general prevention of crime by making examples of specific deviants. The individual actor is not the focus of the attempt at behavioral change, but rather receives punishment in public view in order to deter other individuals from deviance in the future. Specific deterrence focuses on the individual in question. The aim of these

punishments is to discourage the criminal from future criminal acts by instilling an understanding of the consequences. From both a general deterrence and specific deterrence perspective, a non-Guideline sentence would be appropriate.

As for the goal of rehabilitation, there is no rehabilitative goal of relevance in this case that requires a sentence of incarceration. A non-Guideline sentence of supervised release (or probation) would certainly be sufficient to comply with the statutory mandate that the sentence be "sufficient, but not greater than necessary" to achieve the goal of rehabilitation – when given the facts and circumstances of Mr. Osmolik's life. Additionally, it is worthy to note that Ms. Osmolik promptly entered her plea without requiring the Government to present her case to a federal grand jury and have her indicted. She was cooperative with the Government throughout the process and answered all of its questions since the very beginning.

Research has consistently shown that while the certainty of being caught and punished has a deterrent effect, "increases in severity of punishments do not yield significant (if any) marginal deterrent effects." Michael Tonry, Purposes and Functions of Sentencing, 34 Crime & Just. 1, 28 (2006). "Three National Academy of Science panels . . . reached that conclusion, as has every major survey of the evidence." Id.; see also Zvi D. Gabbay, Exploring the Limits of the Restorative Justice Paradigm: Restorative Justice and White Collar Crime, 8 Cardozo J. Conflict Resol. 421, 447-48 (2007) ("[C]ertainty of punishment is empirically known to be a far better deterrent than its severity."). Typical of the findings on general deterrence are those of the Institute of Criminology at Cambridge University. See Andrew von Hirsch et al., Criminal Deterrence and Sentence Severity: An Analysis of Recent Research (1999), summary available at http://members.lycos.co.uk/lawnet/SENTENCE.PDF. The report, commissioned by the British Home Office, examined penalties in the United States as well as several European

countries. Id. at 1. It examined the effects of changes to both the certainty and severity of punishment. Id. While significant correlations were found between the certainty of punishment and crime rates, the "correlations between sentence severity and crime rates . . . were not sufficient to achieve statistical significance." Id. at 2. The report concluded that "the studies reviewed do not provide a basis for inferring that increasing the severity of sentences is capable of enhancing deterrent effects." Id. at 1. Research regarding white collar offenders in particular (presumably the most rational of potential offenders) found no difference in the deterrent effect of probation and that of imprisonment. See David Weisburd et al., Specific Deterrence in a Sample of Offenders Convicted of White Collar Crimes, 33 Criminology 587 (1995); see also Gabbay, supra, at 448-49 ("[T]here is no decisive evidence to support the conclusion that harsh sentences actually have a general and specific deterrent effect on potential white-collar offenders.").

2. Need for Incapacitation - exceptionally low risk of recidivism.

This Honorable Court is respectfully urged to consider 18 U.S.C. § 3553(a) in an effort to impose a sentence "sufficient, but not greater than necessary," as is required by the Supreme Court's decision in Booker. Section 3553(a)(2)(C) requires Courts to consider the need "to protect the public from further crimes of the defendant." 18 U.S.C. § 3553(a)(2)(C) (2011). As this Honorable Court is aware, Ms. Osmolik is currently 52 years old. She respectfully urges this Honorable Court to consider how the Sentencing Commission concluded that "[r]ecidivism rates decline relatively consistently as his age increases." U.S. SENTENCING COMM'N, Measuring Recidivism: The Criminal History Computation Of The Federal Sentencing Guidelines, at 12 (2004) [hereinafter Measuring Recidivism].[5]

[5] Available at: http://www.ussc.gov/publicat/Recidivism_General.pdf.

As the United States Sentencing Commission has noted, individuals who are in Criminal History Category I are only 13.8 percent likely to recidivate within two years of release. Measuring Recidivism at 6. Furthermore, individuals at the age of 50 recidivate at far lower rates than those 21 or younger. Id. at 28. For example, an individual under the age of 21 is 35.5% likely to recidivate, while an individual over the age of 50 is only 9.5% likely to recidivate. Id. at 12, 28. Within a criminal history category of I, an individual under the age of 21 is likely to recidivate 29.5% of the time, while an individual over the age 50 is likely to recidivate only 6.2% of the time. Id. at 28.

Courts across the country have found likelihood of recidivism to be a basis for which a downward variance is available. For example, the United States District Court for the Eastern District of New York sentenced a 43-year-old defendant to 262 months of imprisonment when the guidelines called for a sentence of 324 months, because the Guidelines fail to address the drop in recidivism as age increases, "render[ing] it an imperfect measure of how well a sentence protects the public from further crimes of the defendant." Simon v. United States, 361 F. Supp. 2d 35, 48 (E.D.N.Y. 2005). The Northern District of Indiana, likewise, sentenced an individual to 108 months imprisonment, where the recommended guidelines sentence was 168 months; the defendant in this case was 57 years old. United States v. Nellum, 2005 U.S. Dist. LEXIS 1568 (N.D. Ind. 2005). Additionally, the Southern District of New York concluded that a 30 month sentence was appropriate for a 54-year-old defendant whose guidelines sentence was 46 months. United States v. Carrmona-Rodriguez, 2005 U.S. Dist. LEXIS 6254 at *12-13 (S.D.N.Y. 2005). The Southern District of New York also determined that a 36-year-old individual facing a guidelines sentence of 360 months imprisonment could be sentenced to 240 months

imprisonment because the recidivism rate in the 36-40 age bracket was only 33.1 percent. United States v. Sanchez, 2007 U.S. Dist. LEXIS 1371 at *13 (S.D.N.Y. 2007). It is notable that the defendant in Sanchez was in a criminal history category of IV, while the recidivism rate for Ms. Osmolik's criminal history category (I), as noted above, is only 6.2%. Based on Ms. Osmolik's statistically low likelihood of recidivism for his age group and criminal history, a downward variance based on 18 U.S.C. § 3553(a)(2)(C) considerations would be warranted and reasonable.

Ms. Osmolik is 52 years old, a first offender, a high school graduate, was employed throughout her adult life and has no history of drug or alcohol abuse. The Commission has recognized the advisability of revising the guidelines to take age and first offender status into account. See See Sent'g Comm'n, Recidivism and the "First Offender," at 13-14 (May 2004) [hereinafter First Offender] st 1-2 (identifying goal of "refin[ing] a workable 'first-offender' concept within the guideline criminal history structure"); See Measuring Recidivism at 16 [hereinafter Measuring Recidivism] (noting that "[o]ffender age is a pertinent characteristic" that would "improve [the] predictive power of the guidelines "if incorporated into the criminal history computation"). The Commission has not implemented any such revisions to the criminal history guidelines, but has recently stated that age "may be relevant" in granting a departure. USSG § 5H1.1, p.s.

In imposing the least sentence sufficient to account for the need to protect the public from further crimes of Ms. Osmolik, this Court should consider the statistically low risk of recidivism presented by her history and characteristics. See, e.g., United States v. Darway, 255 Fed. Appx. 68, 73 (6th Cir. 2007) (upholding downward variance on basis of defendant's first-offender status); United States v. Hamilton, 323 Fed. Appx. 27, 31 (2d Cir. 2009) ("the district

court abused its discretion in not taking into account policy considerations with regard to age recidivism not included in the Guidelines"); United States v. Holt, 486 F.3d 997, 1004 (7th Cir. 2007) (affirming below-guideline sentence based on defendant's age, which made it unlikely that he would again be involved in a violent crime); United States v. Urbina, slip op., 2009 WL 565485, *3 (E.D. Wis. Mar. 5, 2009) (considering low risk of recidivism indicated by defendant's lack of criminal record, positive work history, and strong family ties); United States v. Cabrera, 567 F. Supp. 2d 271, 279 (D. Mass. 2008) (granting variance because defendants "with zero criminal history points are less likely to recidivate than all other offenders"); Simon v. United States, 361 F. Supp. 2d 35, 48 (E.D.N.Y. 2005) (basing variance in part on defendant's age of 50 upon release because recidivism drops substantially with age); United States v. Nellum, 2005 WL 300073 at *3 (N.D. Ind. Feb. 3, 2005) (granting variance to 57-year-old defendant because recidivism drops with age); United States v. Ward, 814 F. Supp. 23, 24 (E.D. Va. 1993) (granting departure based on defendant's age as first-time offender since guidelines do not "account for the length of time a particular defendant refrains from criminal conduct" before committing his first offense).

iii. 18 U.S.C. § 3553(a)(7): Need To Provide Restitution To The Victim

In determining the appropriate sentence, this Court must consider "the need to provide restitution to any victims of the offense." See 18 U.S.C. §3553(a)(7); see also, e.g., United States v. Menyweather, 447 F.3d 625, 634 (9th Cir. 2006) (acknowledging district court's discretion to depart from guidelines to impose probationary sentence, since the "goal of obtaining restitution for the victims of Defendant's offense . . . is better served by a non-incarcerated and employed defendant"); United States v. Peterson, 363 F. Supp. 2d 1060, 1061-62 (E.D. Wis. 2005) (granting a variance so that defendant could work and pay restitution).

The victim in this case has stressed the need for restitution, and Ms. Osmolik wishes to provide it. The question, however, is what the appropriate amount is. The parties did stipulate in its written plea agreement that the amount of restitution payable to the victim is $1,777,791.00. In analyzing the comprehensive list of items purchased, however, Ms. Osmolik does contend that some of the charges were legitimate business charges. While these contentions would not ultimately change the loss amount vis-à-vis the Guidelines, it may affect the amount of restitution. Counsel for the Defendant reserves the right to present additional information to the Court at sentencing as to this issue, subject to further communications with the Defendant.[6]

V. SENTENCING PROPOSAL

Joanne Osmolik appears for sentencing after having been convicted after plea to Wire Fraud, in violation of 18 U.S.C. § 1343. Ms. Osmolik requests that this Court sentence her to a period of supervised release. Such a sentence would reflect the seriousness of the offense, promote respect for the law, and to provide just punishment for the offense. Furthermore, said sentence would afford adequate deterrence to criminal conduct and protect the public from this type of criminal conduct. Ms. Osmolik is asking this Court to give him the opportunity to demonstrate that she can continue to live a productive life from this point forward. Alternatively, if this Court does impose a period of incarceration, it is requested that Ms. Osmolik be designated to FCI Danbury and that she be given the opportunity to self-surrender.

[6] At one point, the Defendant had preliminarily agreed to voluntarily surrender the Vermont real estate to Latex International, and this has previously been discussed with the Government and counsel for Latex (James Glasser, Esq.).The undersigned is not currently aware of the Defendant's position on this issue at the present time – however her position will be presented once it becomes available.

RESPECTFULLY SUBMITTED,
JOANNE OSMOLIK

Dated: April 17, 2012

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CERTIFICATION

I hereby certify that on April 17, 2012, a copy of foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

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